Exhibit 13

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May 14, 2021

BY EMAIL

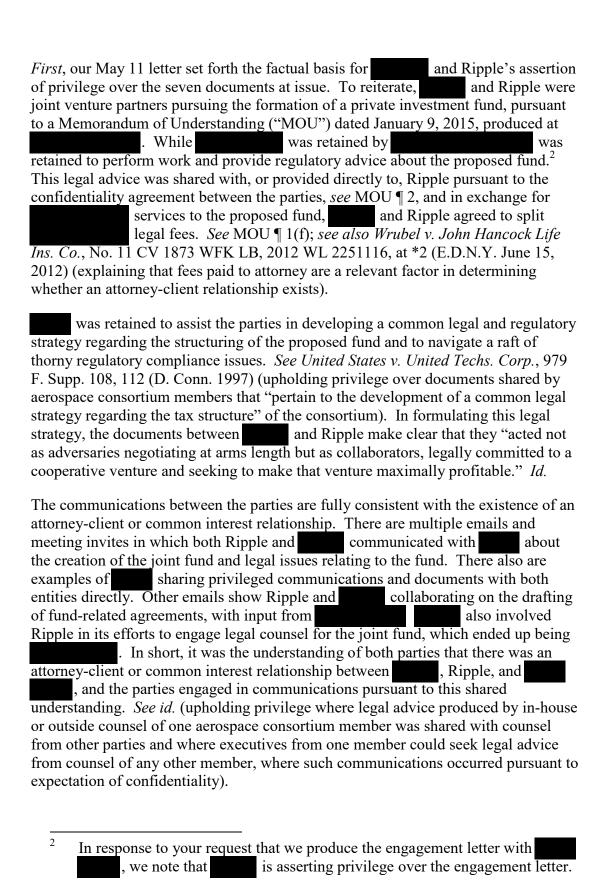
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SEC v. Ripple Labs Inc., et al., No. 20 Civ. 10832 (AT) (S.D.N.Y.)

Dear Counsel:

assertion of privilege over certain documents that Ripple inadvertently disclosed during the investigation. As we explain below, (i) Ripple and have a good-faith basis to assert privilege over the documents at issue; (ii) Ripple's inadvertent disclosure of seven documents in a voluminous, years-long production of over 500,000 pages does not amount to a waiver of those documents; (iii) Ripple acted swiftly to notify the SEC of the inadvertent production soon after discovering the factual basis of the privilege claim; and (iv) even if there was no attorney-client relationship between Ripple and —which there was—the fact remains that is also claiming privilege over the same documents, and the documents should retain their privilege designation for that reason alone.

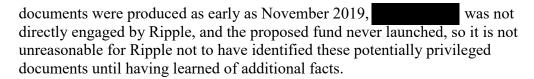
In response to your question about the scope of our clawback request—on May 12, we re-produced the documents that we inadvertently produced (RPLI_SEC0096888, RPLI_SEC0270424, RPLI_SEC0091288, RPLI_SEC0287628, RPLI_SEC0287635, RPLI_SEC0287639, RPLI_SEC0287644) along with their family members, which were not inadvertently produced. Ripple is not claiming privilege as to the family members of the clawed back documents. Ripple can also confirm that we are not asserting privilege over the memo that Ripple shared with



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Second, we categorically reject the SEC's assertion that Ripple may have waived privilege over any of the emails by virtue of our inadvertent disclosure. None of the factors considered by courts in the Second Circuit to determine whether an inadvertent disclosure of documents should be deemed an irrevocable waiver of privilege remotely weigh in favor of waiver. See, e.g., U.S. Fidelity & Guaranty Co. v. Braspetro Oil Services Co., No. 97 Civ. 6124, 2000 WL 744369, at *6 (S.D.N.Y. June 8, 2000) (granting defendant's motion for the return of 40 inadvertently produced privileged documents in light of voluminous discovery and reasonable precautions). We address these four factors below.

- Reasonableness of Precautions. Courts will not rule in favor of parties arguing that an inadvertent disclosure of privileged documents amounts to a waiver unless the conduct of the producing party "evinced such extreme carelessness as to suggest that it was not concerned with the protection of the privilege." See Lloyds Bank PLC v. Republic of Ecuador, No. 96 Civ. 1789(DC), 1997 WL 96591, at * 3 (S.D.N.Y. Mar. 5, 1997). Here, Ripple adopted a highly sophisticated document review and production protocol that included numerous precautions to prevent disclosure, including identifying the names of internal and external counsel retained by Ripple and highlighting those names in the document review platform; segregating potentially privileged documents; and subjecting potentially privileged documents to multiple layers of review (e.g., first level review, second level review, and final privilege review). See Aramony v. United Way of America, 969 F. Supp. 226, 236 (S.D.N.Y. 1997) (reasonable procedure to protect the privilege where paralegals and junior associates in large document production reviewed all documents and identified potentially privileged ones, which were then reviewed by a senior associate for a final determination of privilege). Ripple's procedures were more than adequate to prevent the inadvertent disclosure of documents and are far from the sort of "extreme carelessness" required by courts before ruling that privilege has been waived.
- Time to Rectify Error. Courts also consider the time taken to rectify the error, which is "measured from the time the producing party learns of the disclosure, not from the time of the disclosure itself." Johnson v. Sea-Land Serv., Inc., No. 99 CIV9161WHPTHK, 2001 WL 897185, at *7 (S.D.N.Y. Aug. 9, 2001). Ripple discovered that the relevant documents were potentially privileged production of the pertinent document (on May 5, and after discussions with counsel on May 7, during which Ripple first learned of the factual basis of privilege claim. Ripple's clawback request was then filed within two business days, on May 11. See Georgia–Pacific Corp. v. GAF Roofing Mfg. Co., No. 93 Civ. 5125(RPP) 1995 WL 117871, at *2 (S.D.N.Y. Mar. 20, 1995) (response within two business days of learning of inadvertent production did not constitute a waiver). In short, Ripple acted quickly once it had actual knowledge of the inadvertent disclosure. While it is true that some of the



We also note that you did not raise any such timeliness arguments with respect to the 31 documents clawed back by on March 18, 2021 and which were produced in 2019. In fact, when asserted inadvertent production based on privilege, the SEC promptly destroyed all such documents as it should in compliance with its ethical obligations.

- Scope of Discovery and Extent of Disclosure. Courts also evaluate the overall volume of documents produced in discovery and the number of inadvertent disclosures included among those documents. Courts have "routinely found that where a large number of documents are involved, there is more likely to be an inadvertent disclosure rather than a knowing waiver." See U.S. Fidelity & Guaranty Co., 2000 WL 744369, at *6 (quoting Baker's Aid v. Hussmann Food Service Co., No. 87 Civ. 0937, 1988 WL 138254, at *5 (E.D.N.Y. Dec. 19, 1988)). Here, Ripple's voluminous document production—over 500,000 pages over the course of three years, with additional documents being produced weekly—and the fact that the disclosure here consists of just seven documents "suggests inadvertence, rather than recklessness in protection of the privilege." Id. (no waiver where nearly 40 documents were disclosed, some more than once, out of approximately 400,000 pages of documents); Aramony, 969 F. Supp. at 237 (no waiver where 99 pages of privileged documents were produced in a 630,000-page document production).
- Fairness. Finally, courts weigh overarching issues of fairness, although this is just one factor in a multi-factor test in which no one factor is dispositive. Here, the SEC has made no showing of prejudice resulting from preserving the privileged status of the documents at issue—other than the apparent inconvenience of having to refile the Amended Complaint. Courts tend not to find prejudice where "plaintiffs would simply be deprived of the use of privileged documents which might be helpful to their case—a not uncommon situation." U.S. Fidelity & Guaranty Co., 2000 WL 744369, at *7.

Jorge G. Tenreiro, et al.

May 14, 2021

We are willing to meet and confer further on this issue.

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Please feel free to contact me if you have any questions.

Very truly yours,

Andrew J. Ceresney

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